

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7649

Petition of Northern Community Investment)
Corporation for authority, pursuant to 30 V.S.A.)
§ 248a, to install wireless communications)
facilities in Barnet and Bloomfield, Vermont)

Order entered: 8/25/2010

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by Northern Community Investment Corporation ("NCIC" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order")¹, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of three wireless communications facilities located in the Towns of Barnet and Bloomfield, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on July 23, 2010, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above.²

On August 13, 2010, the Vermont Department of Public Service ("Department") filed a letter with the Board stating that it had contacted the Petitioner requesting supplemental information. The letter also states that, with the additional information, the "project will promote the general good of the state consistent with 30 V.S.A. § 202c(b)."

On August 17, 2010, the Petitioner filed supplemental information to the petition in response to the request of the Department.

1. Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a; Order issued August 14, 2009.

2. The petition was originally filed on November 23, 2009, but was not completed until July 23, 2010.

No other comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition, prefiled testimony, and supplemental information, have effectively addressed the issues raised with respect to the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. NCIC is a non-profit development corporation involved in providing high-speed broadband service to underserved areas of Vermont. Joyce pf. at 2.

2. The Project involves three interconnected monopole communications towers and associated equipment to be located at three locations in the Towns of Barnet and Bloomfield, Vermont. The Project will provide access to wireless broadband communications in two communities that currently lack access to such services. Nelson pf. at 3, 6, 14.

3. The Project facilities are proposed to be located at the following sites: (1) Spencer Hill Road in Bloomfield; (2) Garland Hill Road in Barnet; and (3) Harvey's Lake Road in Barnet. Joyce pf. at 2-4; exhs. 13-15.

4. The Spencer Hill Road facility involves the installation of a 120-foot-high monopole tower, with antennas, and an equipment cabinet attached to the pole at an approximate height of 14 feet above the ground. Joyce pf. at 3; exh. 14.

5. The Garland Hill Road facility involves the installation of a 100-foot-high monopole tower, with antennas, and an equipment cabinet attached to the pole at an approximate height of 14 feet above the ground. Joyce pf. at 3-4; exh. 13.

6. The Harvey's Lake Road facility involves the installation of an 88-foot-high monopole tower, with antennas, and an equipment cabinet attached to the pole at an approximate height of 14 feet above the ground. Joyce pf. at 4; exh. 15.

7. Each facility will be installed on a new concrete foundation that is less than 100 square feet in area. None of the facilities involve the construction of new roads or other access routes. Joyce pf. at 6; exhs. 13-15.

8. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 9 and 10, below.

9. The towers will be painted neutral colors and have been sited in forested areas or fields surrounded by trees in order to minimize aesthetic impacts on surrounding areas. Joyce pf. at 2-4; exhs. 13-15.

10. There are no rare or irreplaceable natural areas or historic sites within the vicinity of the existing telecommunications tower sites where the Project will be located. Joyce pf. at 15.

IV. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. §248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope":

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

Each of the communications facilities included as part of the proposed Project will result in less than 100 square feet of permanent earth disturbance associated with Project installation, and will not exceed 135 feet in height. Therefore, all of the facilities qualify as facilities of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the locations specified in the above findings, by Northern Community Investment Corporation, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 25th day August, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 25, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.